

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2364 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VICTOR @ RAJU SHARMA @ SUNIL SHARMA S/O. IMAMI MENON SUNNI

Versus

COMMISSIONER OF POLICE

Appearance:

MR BM AHUJA for MR. RAJESH M AGRAWAL for Petitioner
Mr.SJ DAVE, A.G.P. for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 16/06/97

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India the petitioner - detenu challenges the detention order dated 30.8.1996 rendered by the respondent No.1 u/s. 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (Act No.16 of 1985) (for short 'the PASA Act').

2. The grounds on which the order of detention is passed against the petitioner appear at Annexure : C. They inter-alia indicate three cases registered against the petitioner, one being C.R.No. 159/95 of Astodia Police Station, inter-alia, under the provisions of Section 392, 394, 120(B) of the Indian Penal Code, second being C.R.No. 120/96 of Vatva Police Station, inter-alia, under Sections 395, 365 and other provisions of the Indian Penal Code read with Section 135(1) of the Bombay Police Act and the third C.R. being C.R.No.353/96 of Kalupur Police Station, inter-alia, u/s.25/1/B/A, 27, 29 of the Arms Act & Section 125(1) of the Bombay Police Act registered on 7.5.1996. It is not in dispute that the petitioner had been in judicial custody since 5.5.1996 in so far as CR No. 159/95 is concerned. It is also not in dispute that that offence was registered on or around 14.11.1995 against the petitioner and other persons including one Mr.Mahendrasinh Jhala being co-accused who was preventively detained by detention order dated 1.7.1996 which came to be set aside in Special Civil Application No.7053/96 by decision dated 25.11.1996 (N.N. Mathur, J.) on the ground that in the facts of that case the said detenu could not be said to be a dangerous person within the meaning of Section 2(C) of the PASA Act. It is also not in dispute that with regard to second C.R. No.120/96 another co-accused Victor @ Rajkumar @ Raju @ Rajesh Jashpal Rajeshwar canvassed the ground of delay against his detention order and the detention of the said co-accused in C.R.No.120/96 was snapped by decision dated 10.2.1997 rendered by this Court in Special Civil Application No.10512 of 1996.

3. The present petitioner also challenges his order of detention on the same ground of delay as has weighed with this Court in Special Civil Application No.10512/96. The respondents have not been able to explain the delay of more than three months in passing the impugned order of detention. Hence, in the facts of the case the impugned order of detention passed against the petitioner is required to be put an end to. Following order is, therefore, passed :

The impugned order of detention is hereby quashed and set aside. The petitioner - detenu - Victor @ Raju Sharma @ Sunil Sharma S/o Imami Memon Sunni shall be forthwith set at liberty if he is not required to be detained in any other case. Rule made absolute accordingly.

* * * * *

sas*

